L:Gutierrez de Pineda--217 8-8 (1947) 1950 SC13 Goajiro SC13

XII

LAW

683 Delicts of aggression. The regimen for social stability is breached, according to the Guajiro Indian's tradition, when aggressive acts are committed in one way or another against the security of individuals.

Let us see some of these infractions which are considered punishable acts that cause the culprit to be sanctioned, in each case in the form of a material indemnity of variable amount, paid to the offended party.

The Guajiro thinks that life runs in the blood, since it is the vital element of most importance (See Ideas about fecundation in Chap. V). To spill blood in any way implies taking some part of his life away from its owner, and in addition, as blood is not the property of the individual only but of all the consanguineous relatives since it is the tie of solidarity through the uterine line, it is necessary for this reason to indemnify these relatives for the injury done to one of their members. Translated into its legal aspect, this means that the breaking of the regimen for stability through an offense or by a delict involves not only the individual but all his consanguineous relatives. But not only are the cases that involve the spilling of blood considered as punishable acts, the Guajiro also classify as delicts against the regimen for social stability all those that in some manner constitute in themselves an open aggression against the person of an individual and that therefore extend to his relatives.

Injuries. Various causes lead to this aggressive act /sic/. The majority of these stem from an old quarrel between two family groups that has not been effectively solved by a payment that should clearly have settled it, so that the members of the two sides are always openly antagonistic, and this feeling

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683 kept below the surface for various reasons, suddenly shows itself at a given moment. That is to say, the cause is in short a family vendetta which may break out at any instant. Another of the causes can be an enmity originating in an illegal act committed by one group against another, such as the stealing of animals, /180/ the abduction of a woman without the corresponding payment, or suspicions or evidence of adultery. In addition one must consider those aggressive acts which occur on the spur of the moment, that is, aggression provoked in the majority of cases by alcoholic abuse.

683 One must also consider many aspects itself of spilling blood
672 which extend responsibility for this aggressive act to one or various persons who did not participate in it directly, but in a passive form. Thus we have the situation that the person guilty of a punishable action of this class is not only he who does it willfully, but also the individual who does it involuntarily, as illustrated in the following example. Two very intimate friends went out one day to hunt. They belonged to different family groups. They had hunted all afternoon and were returning to their homes when a chance of a shot presented itself. When the man carrying the gun tried to shoot, the gun went off unexpectedly and wounded his friend. The culprit, with his relatives, suffered all the consequences connected with breaking the law. No attenuating circumstances of any kind were considered -- neither the friendship nor the involuntary character of the act.

683 The owner of a firearm which causes injury or death brings punishment upon himself and upon his relatives. For this reason, the man who lends a weapon must suffer the consequences of its wrong use, whether voluntary or involuntary.

Injuries to oneself. Anyone who wounds himself must pay his relatives for having shed blood, their common bond to which he has no right.

When some person with an object owned by him injures another person. From among others we cite one case as an example. A rich Indian living in Nazaret got drunk one day.

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683 Already very intoxicated, he started off for home at nightfall, riding on a very frisky burro. For some reason the animal got frightened on the road, near a fence of sticks which protected a corn field belonging to a family different from his own. Because of the jumping of his mount and his own condition, the Indian fell off and scratched his face on the fence, and received in addition several wounds caused by the out-of-control animal. The injured Guajiro charged the owners of the fence with the responsibility of his having shed blood and to indemnify him for this involuntary spilling of his blood, the owners of the sown field were punished by the destruction of their fence, which meant that they lost their harvest. The owners, of a group inferior to that of the injured man, had to resign themselves to this punishment /181/ for fear of worse sanctions, without being able to appeal at all to their favor lack of guilt, since the fence, as their property which it was, had caused the loss of blood. They could be thankful, furthermore, that they were not forced to pay a much higher compensation payment which the injured Indian initially wanted to claim.

Also grouped together under this heading are injuries caused by an animal, whose responsibility is transferred to its owner, who must pay the indemnity due. We have the following case of this. A dog belonging to the convent at Nazaret bit a calf that was in the convent sown field. After a time the calf died. The wounds received were then taken as the cause of death and payment was demanded for the animal on both counts /of injury and death/.

[622] When one Guajiro lends another any animal, he makes himself responsible, as in the case of firearms, for anything that may happen as a consequence of the loan. Thus, for example, if the loan of a beast of burden or a pack animal leads to the borrower's getting hurt, the owner of the animal must pay the damages incurred, because they say that if he had not lent the horse the incident would not have occurred, hence he is the cause of it.

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Q3 A man who employs another runs the risk that something may happen to him while he is in his service or carrying out one of his orders.

A little girl in the orphanage burnt her leg in the kitchen when carrying out a task she had been told to do while learning to cook. Her mother, when she heard of the incident, came to the convent in spite of the fact that the burn was insignificant and formally demanded compensation payment from the Reverend Sisters, the persons responsible for what had happened to her daughter as she was under their orders.

A rich mestizo woman one night requested the services of a Goajiro girl who lived in the neighborhood to help her prepare a meal quickly for her husband and some of his friends who had arrived unexpectedly. While this girl was dressing a hen she cut her finger. The wound bled a little but was of no importance. Nevertheless, very early the following day her mother appeared and demanded compensation payment from the mestizo for the blood shed by her daughter. As the girl was of low status, the mestizo only had to pay four goats, five pigs, 15 hens, 25 skeins of thread for hammocks, five bars of soap worth $1.50 /sic/ each, and several mirrors and kerchiefs. /182/

Contagion. The passing on of a disease, when it does not cause death, can be considered an aggressive act liable to a payment in accordance with the consequences of the contagion.

Any accident, even if caused directly by an enemy of the family or a personal one, which occurs to a person sent by another in compliance with the latter's orders, makes the responsibility and the fault lie equally with the direct causer of the accident and the man under whose orders the injured man acted, since the victim's relatives allege that if he had not been sent under orders to such a place, the act would not have occurred.

Involuntary responsibility implies payment in cases such as the following: A girl was going with a burro to a near-by well for water. Passing the house of a friend, she invited her to

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G83 accompany her. Both got on the burro, which was loaded with the pitchers. The animal reared, and the second girl fell on a cactus, whose needles caused her to bleed. The injured girl's mother demanded compensation payment from the other, and thus made the mother of the first girl go from house to house among her friends and relatives to collect animals and objects with which to pay for her daughter's wrongdoing. If the girl had not invited her friend and if she had not mounted her on an animal which was her property, the accident would not have occurred was the reason presented by the mother of the injured girl when pressing for payment.

A person is also considered to culpable if through giving advice, he causes a particular course of action during the execution of which something happens which brings harmful consequences to the person who took his advice or to his family. We heard for example of the case of an Indian who had advised a friend not to use the customary road to get to a certain place but to take another which he judged to be shorter; his friend took his advice and suffered a fall from his horse, and consequently the Indian had to pay an indemnity, since his advice became an aggressive act against the other, which although involuntary required an indemnity.

It is not considered an attenuating circumstance of guilt when an injury results from an act done in the case of injury or defense. A native of Upper La Guajira very frequently bothered a mestizo because the latter would not get drunk with him, insisting that his refusal was due to his considering the native's group to be inferior to his and that he wanted to humiliate him with this. The mestizo showed himself unwilling to please him until one day they happened to get drunk together in the mestizo's house. The Indian revived his ill-humor and said insulting things about the mestizo's maternal family. The latter, on one hand, should have asserted himself before the onlookers, but on the other hand, the law /183/ did not give him the right, in spite of the offense, to hit one who insulted his family in his own house and in front of onlookers.

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633 Furthermore, the laws of hospitality held him back. But there came a moment when he could stand no more, and he hit his opponent, making his nose bleed profusely. The claim for compensation payment was immediate. He had to pay 45 goats, ten mules, two demijohns of rum, two gold necklaces, 20 skeins of cotton thread, ten hens, four machetes, large kerchiefs, and 80 pesos to a white doctor for his medical services. All this he paid in less time than that agreed upon, with the intent of humiliating his enemy and making a public demonstration of his consanguineous relatives' prestige as rich people.

That the aggressive act is done in legitimate self-defense does not excuse the man who does the injury from culpability. Above all, the claim for compensation payment is promptly presented and the amount is considerable, if the wounded man is the richer.

We must also note the following case: If someone is hurt in the house of some Guajiro the culpability extends to the family head of the home, who in this way is involved in the payment, since it is said that if the man had not been there, the deed would not have happened. The culpability is even more certain if it is established that the owner of the house invited the injured person.

In the general case of injuries we must consider those which are mutually caused by children of different family groups either during their childish activities or those which can be included among the causes just seen. A single exception is made, however, where the two disputants are both slightly hurt, and more or less equally so, while they are playing. But in spite of this, if one of the mothers demands compensation payment from the other, the latter will have to pay. For this reason the mothers try, with the means they have at their disposal, to prevent their children being in the company of children of another family group.

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The responsibility for the delict in La Guajira is borne not only by he who gave the order but also by he who carries it out. Both are involved to an equal degree in the aggressive act. Furthermore, all the people accompanying an individual at the time this person breaks the legal system for stability and injures a /184/ family group are involved in his culpability. They tell of the case of a well-known putchi (1) between Jayariyües and

1. War between two clan groups.

Puthainas, in which all the people accompanying the aggressor had to contribute to the payment because they found themselves involved by the very act of being present in a common complicity.

They consider as a transgressor, and therefore culpable, any individual who indirectly aids the aggressor in accomplishing his delict. It is not considered extenuating that the help was given without previous knowledge that the act was going to occur. We have already seen the case in which the culpability extended to the owners of a firearm, for example, or to those who were along. We must also classify in this totality people who collaborate in transporting the offender in a vehicle or on an animal to the site of the crime, even if they lack knowledge of the reason for such transport. That the crime took place is sufficient for them to be included as culpable.

When a Guajiro spreads slander, if it can be proved to be false, he is obliged to pay for the offense and for the damage he inflicted on the slandered person. This type of case is common among men in respect to the chastity of their women and is used as vengenace against the woman who has refused their amorous attentions or their desire for marriage. The payment demanded as indemnity covers the moral injuries caused, the material consequences, and the pain occasioned to the injured person and to her consanguineous relatives.

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683 The native adds a great deal of his own phantasy to the truth of the facts. For this reason his testimony is sometimes false. He sometimes lies deliberately to obtain the personal advantage of demanding a payment for himself or for someone who has bribed him. If the lie is proved, or if the instigator of the idea is known, the responsibility for the punishable act embraces both, who are jointly punished.

We have already seen a case in which a disinterested and sincere piece of advice led to a man's being saddled with culpability by the one to whom he gave it, since he was regarded as an indirect participant in an aggressive action against the person who took his advice. Ill-intentioned advice is also considered as a transgressive act, which if it is followed by bad results to the person who takes it and if the bad intentions are proved, the counselor is considered guilty because he has caused a break in the regimen for social security. Furthermore, if the crooked intentions of the advice are proved beforehand, the culpability is clearer and demands an economic indemnity.

683 The following are also considered to be aggressive acts:/185/

689 a) Pronouncing the personal name of an individual. This name, according to Guajiro custom, may only be pronounced without giving offense by the closest maternal relatives. To pronounce it or to make it known to other people is to inflict an insult on the individual and involves punishment. This is probably due to the identification of an individual with his personal name. To betray the name is to betray the individual.

b) The worst offense that a Guajiro can receive from an outsider is for the latter, consciously or unconsciously, to pronounce in front of him or in front of his relatives or friends -- who would tell him about it -- the name of a dead maternal relative. The offense is as great as the relative is close. This aggressive act includes not only pronouncing the name of the dead relative when referring to him, but also addressing someone with the same name. From this stems the established custom of changing the names of all the namesakes of a person when he dies.

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683 689 The reason which justifies compensation payment in Guajira mentality is that saying the word which designates a dead relative immediately brings back a vision of that person with the remembrance of his death, and recalls the anguish and pain of that moment. The pain of his absence is renewed, and they are reminded of how much they miss him in the group which may have suffered socially and economically due to the lack of effective backing which the dead man used to provide. All this revival of memories and the consequent affective valuation of the deceased gives great pain to his relatives, for which they must be indemnified.

The offense is graver when the individual for some reason mentions the dead person in a contemptuous way. This may cause the offended relative to kill the offender, as a natural reaction to an aggressive act, even though such an offense is not considered extenuating in this type of homicide.

The act of stepping on a Guajiro's grave is considered an aggressive act against the regimen for social security. If someone sees this happen he informs the relatives, who immediately demand an indemnity of considerable size from the relatives of the offender. This payment has to be made very quickly, since it is an assault on the cult of the dead and can give rise to an armed struggle between clans.

683 Another aggressive act which can give rise to compensation payment is contemptuous allusion to a physical defect which an individual may have or the mention of his nickname, if this refers to a bodily deformity, such as the case of a person who is one-eyed, squint-eyed, /186/ lacks an arm, or has very noticeable scars on his face or on some visible part of his body.

An offense on the same scale as the above is to mention ironically or contemptuously or in a pejorative manner the maternal relatives of someone, especially their ascendants in the female line, or their uncles, criticising their physical defects or their acts.

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683 An insult is taken as an offense that has legal sanction. We note the case of two co-wives who did not get on well. One day they met unexpectedly on the road. One insulted the other with obscenities (in Spanish) and spat on the ground when she passed. This led to her being considered the author of an aggressive act and having to pay an indemnity for the moral offense caused.

When obscenities refer to a woman's honor they are specially injurious, the more so when they refer to her genital organs or to the sex act.

To show open suspicion of another person is also an offensive action which is punished. The story is told how in the Nazaret orphanage some clothes which had been left all night in one of the interior patios to dry were stolen. The Father Superior, looking for the thief, walked around the vicinity visiting the huts and obtaining information. He wanted to find out indirectly who was the thief, and in each house he got new data. In one of these huts, the owners were away and only the servants were there, for which reason he did not enter but only looked in from the outside in a guarded way. This action was noticed, however, by a bond servant, who told his master, a laborer who worked at the orphanage. Time passed and the Father needed someone to accompany him on a trip and when he asked the Indian, the latter openly refused to go with him. Asked why, he said that he was terribly resentful because the suspicion expressed in the Father's act of curiosity had pained him profoundly. If he was not paid for the pain thus caused, he would not go with him. The Father had to indemnify him.

683 522 Another act considered offensive in the Guajiro mentality is to ridicule someone. The Indian has a jocular nature, but to make someone openly the butt of his jests may cause such a feeling of offense that the man whose feelings have been wounded demands payment. It is not unusual that they joke among themselves, especially under the effects of alcohol, but it is also not unusual for their feelings to be hurt very easily, and a simple joke may cause offense, even between very close friends. To erase the effect of the hurt and /187/ sorrow (as the Guajiro says) caused by

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683 being put in a ridiculous position, the individual demands a pay-
[522] ment that compensates him for what was said.

It is also considered offensive and therefore contrary to the regimen for personal safety if one man hits another without wounding him. There are two aspects to be considered in this act as aggravations: the physical, that is, the blow in itself, and the psychological, for the Guajiro thinks that by being hit in this way he has been reduced to the status of a slave or bond servant; and consequently he has not only been lowered in his standing as a free man but has also been placed on a plane of dependence with respect to the person who hit him. The indemnity must satisfy both offenses.

To tear someone's robe also has a double significance as an aggressive act: the material damage caused, which must be replaced by buying a new one (conduct of a drunken husband); and the psychological damage, as it is like injuring the person himself, since a person is identified with the clothes he wears.

Any damage to the property of a person is an aggressive act and punishable as such, and the indemnity should be greater than the loss, since the excess represents the grievance suffered.

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689 The transgression of the legal norms illustrated in the above
191 aggressive acts against the regimen for stability in La Guajira must be paid for both by a member of the society as well as by an outsider. But there are two things which can only apply to a native individual, an active member of the Guajiro community. These two things are the following.

a) Language. The Indian very much values his native language and tries to preserve it at all cost. His women do not want to learn Spanish and pretend they do not know it when they are questioned. It constitutes in itself a grave offense if one native speaks to another in Spanish instead of his native tongue. The story is told of a Guajiro who spoke to a relative in Spanish during

[45 cont.]
782 quite high, which also gives us an idea of their value in the opinion of the Indians since they considered that the fact of their points being impregnated with the blood of the sacrificed child made them both more poisonous and more accurate.

766 The body of the boy, who had to be between four and six years old, was brought by the father to the hamlet after these magic operations were finished and was buried in the clan cemetery. The burial and the death of the child were secrets. Nobody must know about it. We could not discover if the secret
[682 nature of the ceremony was due to the fact that the community
789] might punish the murderer, the mother or maternal aunt, or some member of the child's family on the maternal side, collecting the corresponding sum for his death in accord [46] with customary Guajiro law, or if the reason was that secrecy strengthened the malevolent qualities of the poison on the arrows. It is to be presumed that the latter hypothesis is the more acceptable, since the disappearance of the child and the sale of magic arrows by the father would point him out as the author of the sacrifice.

682 In any case we cannot overlook the aspects of blood in
683 the child sacrifice just mentioned. Spilling blood is one of the
826 crimes most severely punished. Blood, according to everything one can deduce, has great value for the natives, as it is considered an integral part of their human personality, even to confounding it, so to speak, with personality itself, as they do in the case of names. Hence, for the same reason, he who voluntarily or involuntarily sheds the blood of another person is stigmatized and becomes an outcast from society. He becomes unclean, and in consequence has to make the corresponding reparation which at the present time is complied with by paying to the offended party or to his family a determined
[411] quantity of valuable objects or animals. For this same reason, arrows contaminated with the blood of the child sacrificed by his father have, or ought to have, according to the Guajiro mentality, an incalculable value due to their participation in
411 the sacrifice and spilling of blood, thanks to its presence on
435 their points. Moreover, if we take into account what the
775 dead man means to the Guajiro as a spirit capable of doing harm

4: Petrullo E-5 (1935) 1937
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628 deeds frequently, and fears that he may bring severe disaster
672 on his relatives, he may be killed. It is interesting to know
681 that the individual may not necessarily be evil-intentioned.

We are accustomed to think that for an act of trespass on
672 the person or property the injured party can recover only if the act is considered to have been intentional or negligent.[6] Among the Guajiro there is no such qualification of a tort in order to allow legal action and to recognize legal liability. The act and the injury ensuing from it are the only considerations which have any importance.

628 *Case I:* Three boys, A, B, and C, close friends, were seated
672 on a log in the order named. B held a knife in his hand. In
683 the spirit of play A and C attempted to take it away from him. In the good-natured scuffle that ensued A was slashed across the thigh accidentally.

The families of A, the injured party, and of B were on friendly terms. B's family immediately offered payment for the hurt done to A. Each family chose an arbiter, men known for their knowledge of law and their fairness, who granted A's family payment commensurate with the social position of A and the ability of B's family to pay: 60 sheep, 1 bull, 1 ass, a gold necklace, a horse.

628 *Case II:* Cacique A killed Cacique B through the accidental
672 discharge of a firearm. Their families belonged to the same
682 casta, and both being anxious to avoid armed conflict B's family agreed to accept a property composition for the tort: 100 cows, 100 horses, 7 mules, 1,000 sheep.

Case III: Cacique A killed Cacique B in a quarrel. Both families being desirous of keeping the peace and both being members of the same casta, property composition was arranged.

This case would obviously fall within the class of crimes in our society and A would have been punished irrespective of the attitude of B's family. As a matter of fact, had B's family
554 been less important or had it belonged to the peon or slave
628 class, A's family may not have paid anything. On the other
672 hand had A been a peon or slave, his family would have suf-
682 fered extermination at the hands of B's relatives. A's family

4: Petrullo E-5 (1935) 1937
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could not have paid the price in the first place, and besides B's family would have little to fear from them.

The father and maternal uncle of the slain man take the initiative in seeking payment which goes to the mother's family.

If A and B had been workmen or retainers of C, a cacique, and A's family could not have paid the price of composition, then C would have paid B's family and in compensation would have enslaved A and his family. Payment for killing a peon is 10 asses, 50 to 100 sheep, and 10 steers.

Case IV: A was working for B. In the course of the work through no fault of B, A was hurt. B paid A's family for the injury. A's family took care of A.

Case V: A and B were working for C. Through accident B hurt A. B's family had to settle the injury with A's family. Had A been hurt in the course of the work without B acting as the instrument, then C, the employer, would have had to pay.

This case is similar to the one described by Simons. If A lends a horse to B and B is hurt through the instrumentality of the horse, A has to pay. If A gives rum to B and B injures C, A is held responsible.

Case VI: A wants to marry B. B or B's family reject his suit. A goes to B's rancho at night and commits suicide there B's family has to pay A's family for the death of A, B being considered as the direct instrument that caused A's death.

Case VII: A injures or kills B, caught *in flagrante delicto* with A's wife. A has to pay B's family a price minus an amount considered fair value for the sexual privilege that B exercised on A's wife.

These illustrations point to the absolute nature of Guajiro law. No extenuating circumstances are allowed to enter into settlement of cases of battery or other trespass on the rights of an individual. The case is different in so far as public sympathy and moral censure or approbation are concerned. Furthermore, society as a whole takes no action in righting wrongs. The family of the injured person must seek composition, and if it is not powerful enough to demand a high price it has to be satisfied with a smaller one. Conversely, there is

5: Simons K-5 (ca. 1882) 1885
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611 614 628 [604] In the following laws it must be borne in mind that it is not the injured individual that demands compensation, but his relations, uncles on the mother's side as a rule. From this has arisen the common error that the father is ignored; as will be seen further on, this is not the case. In compensation it is the caste that reclaims, and the caste is always the mother's side. For example, a Pushaina man marries an Uriana girl; the children are Urianas. If one of these now should kill an Epieyu, for example, the whole caste of Uriana is at war with all the Epieyues, unless the matter is amicably settled by paying blood-money.

672 683 [572] Case No. 1. Personally inflicted wounds. If an Indian accidentally cuts himself, say with his own knife, breaks a limb, or otherwise does himself an injury, his family on the mother's side immediately demands blood-money. Being of their blood, he is not allowed to spill it without paying for it. The father's relations demand tear-money, not so much. Friends present demand compensation to repay their sorrow at seeing a friend in pain. If anybody present can seize the instrument that caused the accident it is appropriated. The pay is in ratio to the injury. A slightly cut finger is settled with a little Indian corn, a kid, or such trifle. A bad cut requires at least a goat or a sheep, with other sundries. In all cases of compensation where the Indian has not the wherewith to satisfy his creditors, he goes round begging until it is obtained.

628 672 683 Case No. 2. Damage done by animals. Suppose an Indian borrows a mule or other animal, and is thrown by it, doing himself bodily injury, then his relations demand compensation from the lender, the argument being, had he not lent the animal the accident could not have happened. Should the beast belong to the thrown man himself, then he has to pay. Case of No. 1 in fact.

[466] Case No. 3. General liability all round. This covers an enormous field. The most curious. Everybody selling rum or anything else is answerable for all the damage done by its instrumentality. Unfortunately this law is only, like many others, enforced when it is possible. As the traders know it very well, they never take rum into the interior for barter without being fully able to protect themselves. I was lent a servant as guide by a trader, who requested me not to let the man have any drink, for should anything happen to him he would be responsible to the family. Indians in employment receiving any damage the employer becomes liable; and so on. Wherever the Indian can only make the ghost of a claim he wants tear-money, blood-money, or some other money, and if not satisfied, helps himself with what he can lay his hands on.

551 628 689 Case No. 4. Mentioning names. This is very serious. The Indians object to have their true names mentioned, and demand heavy compensation in aggravated cases. They generally go by a Spanish name—José Antonio, Agustin, Vicente, &c., for an Indian dearly loves to be baptised, that is, he likes the attending feast and having god-fathers on

7:Bolinder T-5 (1920, 1955) 1957
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inherit. They hold him in great respect. A man's chief heir is thus his eldest nephew and he takes particular care of him. During his lifetime a well-to-do man will give his sons enough cattle to ensure that they will not be left destitute when he dies. Each clan has its name and its symbol: the jaguar, rattle-snake, king vulture, dog, etc., but this has no connection with totemism or magic. The Indians think no more of their name's meaning than we do, when people have animal names. They often joke about them.

A number of the clans are large and powerful, others small and weak, sometimes entirely dependent on one of the big clans. Those born into a big clan are fortunate, for they have power behind them and can count on support and help if they are insulted, threatened or robbed, for the members of a clan stick together whatever happens, united by the bond of blood. The same blood flows in all their veins. The Indians imagine that the human grows from a drop of the mother's blood, and that the foetus feeds on the new vital fluid—for they know that menstruation ceases during pregnancy.

A man does not possess the right to dispose of his blood or his life. They both belong to the clan. If he hurts himself so that blood flows he must pay damages to his clan for shedding their blood. Suicide is also punishable, though not at all unusual. After an unsuccessful attempt at suicide, the clan will claim damages, even if no blood has been shed. An Indian wanting to take his own life hangs himself. Such importance is attached to the shedding of blood, that, if someone strikes another and makes his nose bleed, this is regarded as an aggravating circumstance and increases the compensation the victim demands. His whole clan will consider itself insulted. In fact, one can really say that an Indian only has the usufruct of his life and blood.

It is the same with the land. The land in the peninsula is owned by the clans, each of which has its own defined territory. The cultivable areas are not large and lie round the few water-courses that are not dry during most of the year. These plantations are traditionally exploited by certain families in each clan and are inherited by the eldest nephews.

7:Bolinder T-5 (1920, 1955) 1957
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4 goats, 5 pigs, 15 hens, 25 skeins of yarn, 5 bars of soap (an expensive commodity) and some mirrors and handkerchiefs. Employees are very well insured, it would seem. If an employee destroys anything belonging to a third party, the employer has to pay twice its value or more. One's responsibility is not confined to what persons in one's service may do, but extends to animals and inanimate objects if one lends them. If I let an Indian ride my horse and the horse throws him off, I have to pay; and if someone cuts himself on a knife belonging to me, I have to pay—for it was my knife that did it. 672

It can even be risky to give advice in Guajira: for if you suggest a course of action and things go wrong, you may have to pay compensation. That is why the Indians will seldom tell you the way when you ask it.

A host is responsible to his guests, even if they are self-invited. Hospitality is sacred and one cannot refuse to receive someone seeking shelter. If the guest is ill, the host looks after him as best he can, but immediately sends for one of his relations. As soon as a relative arrives the host's responsibilities cease, but if the guest should die before the relative gets there, the host is liable for damages, hard as it may seem. On the other hand, if a person suffering from an infectious disease goes to someone else's house, it is the guest who is responsible and must pay his host damages. 672 574

If two guests start fighting the host is considered jointly responsible, for if he had not invited them there would never have been a fight. If the others present do not try to avert the quarrel, they must pay up too.

Insults and calumny are contrary to the law, and it is especially serious if one reviles another's mother's family. Among themselves the Indians consider it disparaging to be addressed in Spanish, instead of in their mother tongue. 683 [578]

Every Indian has a personal name used only by his nearest and dearest. For an outsider to pronounce this calls for a heavy penalty, as it does to speak the name of someone dead. As soon as it is learned that someone has died, all those with the same name at once change it for another. The 551 683

7:Bolinder T-5 (1920, 1955) 1957
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idea being that to speak the name renews the grief of the dead person's relatives. An old man of the Uriana clan, who called himself Juan, died. Some time later some of his relatives were at an entertainment, at which too was a woman of the Jusuá clan with her little son. A Creole asked this woman what her little boy was called and without thinking, she replied: 'Juan'. The dead man's relatives then claimed damages because she had mentioned the dead man's name, and she had to pay them a bullock, even though it was a Spanish name. It was the reminder of their grief that had to be compensated. It is also an offence to tread on an Indian's grave.

It is more expensive to strike a person than to insult him. One should not answer an insult with a blow, but a well-to-do Indian will not infrequently do so and gladly pay the damages. If an Indian strikes another without hurting him, he must pay nonetheless, because he has treated the other as a slave—it being only one's own slaves that one has the right to strike. If anyone tears a tunic, he must not only replace it, but pay for the shame the other felt at going about in rags.

A thief, if caught, must repay several times the value of what he has stolen. Not infrequently he must pay with his life, especially if the person he has robbed is a powerful personage, as he usually is, and the thief belongs to a weak clan that cannot help his family to exact blood-money.

A thief can be forced to pay by working for his victim. He becomes a debtor-slave. Murder, manslaughter and being the cause of another's death are the most serious crimes. They do not have these actual categories. The penalty for manslaughter is very heavy; if agreement cannot be reached on it, it can sometimes lead to war, a war in which the enemy must either be exterminated or enslaved.

It is on such occasions that a purchi is held, at which you can see the groups of warriors drawn up facing each other, while a chief presides.

The chief is a mighty person and will have been chosen for his excellent qualities, yet he is not a judge, but rather advocate and mediator. His role is as conciliator. He will

8:Armstrong & Métraux E-4 (no date) 1948
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the other. Many other cases indicate the absolute nature of *Goajiro* law 672
and the refusal to recognize extenuating circumstances.

Murder is a very serious crime, and the victim's family immediately 682
demands blood money to the amount of 200 or more cattle. For failure 628
to pay, a member of the murderer's sib of the same rank as the victim must forfeit his life. If payment is not forthcoming retaliatory raids are made. As the defenders generally lose more people than the attackers, the feud may continue indefinitely until all the members of one sib will consider themselves at war with the members of the other, thereby spreading the war throughout the peninsula. If a feud should develop between the sib of the husband and that of the wife, the latter, with her children, will return to her own group until the trouble is over.

A person who has received a deadly insult from another is baited and 683
chided until he takes revenge by killing the offender, in proof of which he removes the victim's viscera and takes them home. This act also prevents the victim's soul from bothering him. If unable to accomplish this he may commit suicide. Suicide is also sometimes a means of vengeance, a person feeling that he will suffer less than those who caused him 762
to commit the act. Thus a wife who is not allowed enough freedom may hang herself.

Next to murder, one of the most serious offenses is to mention a per- 689
son's true name (given at birth?) or to mention a person's name after his death. This has caused many tribal conflicts.

The value of the compensation demanded in disputes varies directly 681
with the social rank of the offended party. In some cases a repeated 565
offender may be killed by his own sib members. Sometimes, rather than 728
to continue the warfare, hostile sibs may confer under the auspices of an outsider, such as a Capuchin monk, and draw up peace terms. In personal quarrels or minor brawls women often step in and enforce peace.

WARFARE

Wars between the *Goajiro* and outsiders are rare, but any White man 721
may be held liable for the offense done by another, as all Whites are thought 609
to belong to the same sib. Sometimes the few civilized people living in the peninsula take vengeance on the Indians, which leads to further reprisals by the latter.

At the time of De la Rosa, war was declared by sending to the other 721
tribe an ambassador who, in a public speech, asked indemnities for damage previously done. If these were not conceded war was declared, but a brief truce was observed in order that preparations might be made. In battle each group of opposing warriors formed a semicircle and tried to surround and destroy the other. In individual encounters a *Goajiro* rode 726
out on a horse, but, upon seeing the enemy, he dismounted and shot his own horse with an arrow to show his confidence and willingness to fight